

Guideline

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Bill No. Overlay☺S ____ IS

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106 th CONGRESS

1 st Session

S. ____

[Report No. 106○]

TITLETo amend the Internal Revenue Code of 1986 to provide for a deferral of tax on gain from the sale of telecommunications businesses in specific circumstances or a tax credit and other incentives to promote diversity of ownership in telecommunications businesses.

Rule

IN THE SENATE OF THE UNITED STATES

DATEOctober __, 1999

Mr. McCain (for himself and Mr. Burns) introduced the following bill; which was read twice and referred to the Committee on _____

Rule

A BILL

TITLETo amend the Internal Revenue Code of 1986 to provide for a deferral of tax on gain from the sale of telecommunications businesses in specific circumstances or a tax credit and other incentives to promote diversity of ownership in telecommunications businesses.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ``Telecommunications Ownership Diversification Act of 1999".

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings._ The Congress makes the following findings:

(1) Current trends in the telecommunications industry show that there is increasing convergence among various media, including broadcasting, cable television, and Internet-based businesses, and that these media are providing competing sources of news, information, and entertainment.

(2) This convergence and competitiveness will continue, and therefore it should be recognized in both telecommunications and tax policy.

(3) Notwithstanding these trends, diversifying the ownership of telecommunications facilities remains a pre-eminent public interest concern.

(4) A market-based, voluntary system of investment incentives is the most effective, lawful, and economically sound means of facilitating entry into the telecommunications industry.

(5) Opportunities for new entrants to participate in the telecommunications industry have substantially decreased since the end of the Federal Communications Commission's tax certificate policy in 1995, particularly in light of the increase in tax-free like-kind exchanges despite the most robust period of transfers of radio and television stations in history. Small businesses, and businesses owned or controlled by members of minority groups or by women, have been at a particular disadvantage, as indicated by their historic under representation as owners of telecommunications facilities.

(6) Access to and cost of capital has been a substantial obstacle to new entry into telecommunications by small businesses and businesses owned or controlled by members of minority groups and by women who want to be long-term, active participants in the telecommunications industry, because they do not currently own properties that can be utilized in like-kind exchanges, they are either unable to secure financing from lending institutions and equipment manufacturers at all, or else cannot secure financing terms as advantageous as those offered to large industry participants.

(7) Telecommunications facilities owned by new entrants may not be as attractive to investors because their start-up costs are often high, their revenue streams are uncertain, and their profit margins are unknown.

(8) It is consistent with the public interest, and with the pro-competition policies of the Telecommunications Act of 1996, to provide incentives that will facilitate the ability of existing owners of converging telecommunications media to transact business so as to improve their ability to compete, while the reinvestment of gains realized from such transactions will also facilitate the acquisition of telecommunications facilities by small businesses, especially those owned or controlled by members of minority groups and by women, thereby diversifying the ownership of telecommunications facilities.

(9) Permitting sellers of telecommunications facilities to defer taxation of gains from transactions involving small businesses and businesses owned or controlled by members of minority groups and by women, and resulting from investments in capital funds whose stated purpose is to provide capital for such entities, will further the development of a competitive and diverse United States information distribution economy without governmental intrusion in private investment decisions.

(10) The public interest would not be served by attempts to diversify the ownership of telecommunications businesses by small businesses or businesses owned or controlled by minorities and women through any approach that would involve the use of mandated set-asides or quotas.

(b) Purpose._ The purpose of this Act is to facilitate voluntary, pro-competitive transactions involving converging telecommunications media that will promote diversification in, and broaden the participation in, the telecommunications industry by small businesses, and businesses owned or controlled by members of minority groups and women.

SEC. 3. AMENDMENTS TO INTERNAL REVENUE CODE.

(a) Nonrecognition of Gain from Sale of Telecommunications Business._ Part III of subchapter O of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following:

``SEC. 1046. SALE OF TELECOMMUNICATIONS BUSINESS.

``(a) Nonrecognition of Gain._

``(1) In general._ At the election of a taxpayer, made at such time and in such manner as the Secretary may prescribe, no gain shall be recognized on the sale of a telecommunications business if_

``(A) the business is sold to an eligible purchaser and the taxpayer purchases 1 or more telecommunications businesses within the replacement period; or

“(B) the taxpayer purchases, within the replacement period, 1 or more equity interests in an entity that is an eligible purchaser that_

“(i) derives, directly or indirectly, 50 percent or more of its gross income from a telecommunications business; or

“(ii) invests substantially all of the gross proceeds received from the taxpayer in the acquisition of a telecommunications business and the acquisition occurs within 180 days after the expiration of the taxpayer's replacement period.

“(2) Limitations._

“(A) Reinvestment cap._ Gain is eligible for nonrecognition treatment under this subsection only to the extent that it equals or exceeds the aggregate amount paid or incurred by the taxpayer for the telecommunications businesses or equity interests purchased.

“(B) Taxable year dollar amount per transaction._ The amount of gain eligible for nonrecognition under paragraph (1)(A), and the amount of gain eligible for nonrecognition under paragraph (1)(B), respectively, for any taxable year may not exceed \$250,000,000 for each transaction to which such paragraph applies. Any gain that would be eligible for nonrecognition under either such paragraph because of the limitation imposed by the preceding sentence shall be carried forward to each of the next 2 taxable years, subject to that limitation in each of those taxable years.

“(b) Replacement Period._ For purposes of this section, the term ‘replacement period’ means the period beginning on the date on which the taxpayer's sale of a telecommunications business occurs and ending_

“(1) 2 years after the close of the first taxable year of the taxpayer in which any part of the gain from the sale is realized by the taxpayer; or

“(2) such later date as the Secretary may designate upon application made by the taxpayer, at such time and in such manner as the Secretary may prescribe, and subject to such terms and conditions as the Secretary may require.

“(c) Time for Assessment of Deficiency._ If the taxpayer makes the election provided by subsection (a) with respect to gain from the sale of property_

“(1) the period for the assessment of a deficiency with respect to such gain for any taxable year in which any part of the gain is realized does not expire before the expiration of the third taxable year beginning after the taxable year in which the Secretary is notified by the taxpayer of the taxpayer's purchase described in paragraph (1) or (2) of subsection (a), or of the taxpayer's intention not to make such a purchase;

and

“(2) any such deficiency may be assessed at anytime before the expiration of such third taxable year, notwithstanding section 6212 or any other provision or rule of law.

“(d) Basis._

“(1) In general._ In the case of a telecommunications business purchased by the taxpayer in a transaction described in subsection (a)(1), or an equity interest purchased by the taxpayer in a transaction described in subsection (a)(2), the basis shall be the cost of such business or equity interest decreased by the amount of the gain not recognized. If the taxpayer purchases more than 1 such business or equity interests, the basis determined under this paragraph shall be allocated to such businesses or equity interests in the same proportion as the amount paid or incurred by the taxpayer for each such business or equity interest bears to the sum of the amounts paid or incurred by the taxpayer for all such businesses or equity interests.

“(2) Property held by corporation the stock of which is replacement property._

“(A) In general._ If the basis of stock in a corporation is decreased under paragraph (1), the basis of property held by the corporation at the time the taxpayer acquired control of the corporation shall be reduced by an amount equal to the amount of that decrease.

“(B) Limitation._ Subparagraph (A) does not apply to the extent that it would (but for this subparagraph) require a reduction in the aggregate adjusted bases of the property of the corporation below the taxpayer's adjusted basis of the stock in the corporation (determined immediately after that basis is decreased under paragraph (1)).

“(C) Allocation of basis reduction._ The decrease required under subparagraph (A) shall be allocated_

“(i) first to assets of telecommunications businesses held by the corporation;

“(ii) second to depreciable property (as defined in section 1017(b)(3)(B)) that is not described in clause (i); and

“(iii) then to other property.

“(D) Special rules._

“(i) Reduction not to exceed adjusted basis of property._ No reduction in the basis of any property under this paragraph shall exceed the adjusted basis of such property (determined without regard to the reduction).

“(ii) Allocation of reduction among properties._ If more than 1 property is described in a clause of subparagraph (C), then the reduction under this paragraph shall be allocated among such property in proportion to the adjusted bases of the property (as so determined).

“(e) Acquisition from Unrelated Person Required._

“(1) In general._ Subsection (a) does not apply to a taxpayer described in paragraph (2) if the telecommunications business described in subsection (a)(1) is sold to, or the equity interest described in subsection (a)(2), is purchased from, a related person (within the meaning of section 267(b) or (e)). The preceding sentence does not apply to the extent that the related person acquired that telecommunications business or that equity interest from a person that is not a related person (within the meaning of section 267(b) or (e), or section 707(b)(1)) during the replacement period.

“(2) Taxpayers to which paragraph (1) applies._

“(A) In general._ Paragraph (1) applies to_

“(i) a C corporation;

“(ii) a partnership in which 1 or more C corporations own, directly or indirectly (determined under section 707(b)(3)), more than 50 percent of the capital interest or profits interest in the partnership at the time of the sale of the telecommunications business; and

“(iii) any other taxpayer if, with respect to a telecommunications business that is sold during the taxpayer's taxable year, the aggregate of the amount of gain realized on the sale of the telecommunications business exceeds \$100,000.

“(B) Application to partnerships; s corporations._ Subparagraph (A)(iii) shall be applied to_

“(i) a partnership both at the partnership level and to each partner; and

“(ii) an S corporation at both the corporate and shareholder level (under rules prescribed by the Secretary).

“(f) Consequences of Subsequent Disposition by Eligible Purchaser._

“(1) In general._ If the eligible purchaser disposes of the telecommunications business acquired from the taxpayer (in the case of sale described in subsection (a)(1)), or substantially all of its telecommunications businesses (in the case of an equity investment described in subsection (a)(2)), within 3 years after the date of that acquisition or equity investment to any person that is not an eligible purchaser, the eligible purchaser shall recognize gain in the year of disposition equal to the amount of

gain deferred by the taxpayer under subsection (a).

“(2) Certain dispositions._ If the taxpayer or the eligible purchaser is an individual, paragraph (1) does not apply to a disposition after the earlier of_

“(A) the date of death or bankruptcy of the eligible purchaser (in the case of an individual); or

“(B) the date of death or bankruptcy of the taxpayer.

“(g) Definitions; Special Rules._ For purposes of this section_

“(1) Eligible purchaser._ The term ‘eligible purchaser’ means_

“(A) the Telecommunications Development Fund established under section 714 of the Communications Act of 1934 (47 U.S.C. 614), or any wholly-owned affiliate of that Fund;

“(B) an entity described in paragraph (2); or

“(C) an individual described in paragraph (3).

“(2) Entities._ An entity is described in this paragraph if it is a corporation or a partnership that_

“(A) is controlled by individuals described in paragraph (3); and

“(B) meets the requirements of paragraph (4) at the time of the sale of the telecommunications business or the equity investment by the taxpayer described in subsection (a).

“(3) Individuals._ An individual is described in this paragraph if that individual meets the requirements of paragraph (4) at the time of the sale of the telecommunications business or the equity investment by the taxpayer described in subsection (a) and is_

“(A) a United States citizen; or

“(B) a United States citizen who is_

“(i) a woman;

“(ii) a Black or African American;

“(iii) a Latino or Hispanic American;

“(iv) an Asian American, Native Hawaiian or other Pacific Islander; or

“(v) an American Indian, Alaskan Indian, and American Eskimo, or an Aleut.

“(4) Net worth and related requirements._

“(A) In general._

“(i) Secretary of Commerce recommendations._ Within 90 days after the date of enactment of the Telecommunications Ownership Diversification Act of 1999, the Secretary of Commerce shall transmit to the Secretary of the Treasury the Secretary of Commerce's recommendations for requirements with respect to the maximum net worth, gross revenues, or total assets of entities described in paragraph (2) and the maximum net worth of individuals described in paragraph (3).

“(ii) Treasury regulations._ Within 180 days after the date of enactment of the Telecommunications Ownership Diversification Act of 1999, the Secretary of the Treasury shall promulgate regulations establishing limits on the maximum net worth, gross revenues, or total assets of entities described in paragraph (2) and maximum net worth of individuals described in paragraph (3), and revise those regulations from time to time as may be appropriate.

“(iii) Indian tribes and Alaska native corporations._ The regulations shall comply with relevant standards of the Small Business Administration and the Federal Communications Commission applicable to American Indian Tribal entities and Alaska Native Corporations.

“(B) Criteria; procedure._ The Secretary of Commerce, in making recommendations, and the Secretary of the Treasury, in promulgating regulations, under subparagraph (A)_

“(i) shall ensure that the limits established are consistent with market demands by taking into account telecommunications business transactions during the 9 months preceding their establishment, giving greater weight to transactions occurring closest in time to their establishment, and by taking into account changes in the laws and regulations affecting telecommunications businesses occurring within such 9 month period;

“(ii) shall consult with the Attorney General, the Federal Communications Commission, the Administrator of the Small Business Administration, and other officers or agencies of the United States;

“(iii) may establish the limits without regard to the provisions of chapter 5 of title 5, United States Code, and sections 10 and 11 of the Federal Advisory Committee Act (5 U.S.C. App.); and

“(iv) may, to the extent otherwise consistent with law, take into account such factors as historical inability to access capital by particular groups, including members of minority groups and women, in establishing limits, but nothing in this clause is intended to prevent the Secretary of Commerce from recommending or the Secretary of the Treasury from establishing, different gross revenue and net worth ceilings for different classes of eligible purchasers, whether individuals described in paragraph (3) or entities described in paragraph (2), to the extent necessary to promote diversity of ownership in telecommunications.

“(5) Equity interest._ The term ‘equity interest’ means stock in a corporation or, in the case of a partnership, an interest in the capital and profits of the partnership.

“(6) Telecommunications business._ The term ‘telecommunications business’ means_

“(A) substantially all the assets of a facility engaged in electronic communications, including a cable system (as defined in section 602(7) of the Communications Act of 1934 (47 U.S.C. 532(7)), a radio station (as defined in section 3(35) of that Act (47 U.S.C. 153(35))), a broadcasting station providing television service (as defined in section 3(49) of that Act (47 U.S.C. 153(49))), a provider of direct broadcast satellite service (as defined in section 335(b)(5) of that Act (47 U.S.C. 335(b)(5))), a provider of video programming (as defined in section 602(20) of that Act (47 U.S.C. 602(20))); a provider of commercial mobile services (as defined in section 332(d)(1) of that Act (47 U.S.C. 332(d)(1))), a telecommunications carrier (as defined in section 3(44) of that Act (47 U.S.C. 153(44))), a reseller of telecommunications service or commercial mobile service; a multichannel multipoint distribution service, Internet service provider; Internet content provider; or a provider of telecommunications or information service equipment or software;

“(B) stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of a corporation substantially all of the assets of which consist, directly or indirectly, of assets described in subparagraph (A); and

“(C) 80 percent or more of the total interest in the capital and profits of a partnership substantially all of the assets of which consist, directly or indirectly, of assets described in subparagraph (A).

“(7) Purchase._ The taxpayer shall be considered to have purchased a property if, but for subsection (d), the unadjusted basis of the property would be its cost within the meaning of section 1012.

“(8) Control._

“(A) In general._ For purposes of paragraph (2)(A), an entity is controlled by

individuals described in paragraph (3) if the requirements of paragraph the requirements of subparagraph (B), (C), or (D) are satisfied.

“(B) 30-percent test._ The requirements of this subparagraph are satisfied if_

“(i) with respect to any entity which is a corporation, individuals who meet the requirements of paragraph (3) own 30 percent or more in value of the outstanding stock of the corporation, and more than 50 percent of the total combined voting power of all classes of stock entitled to vote of the corporation; and

“(ii) with respect to any entity which is a partnership, individuals who meet the requirements of paragraph (3) own 30 percent or more of the capital interest and the profits interest in the partnership, and more than 50 percent of the total combined voting power of all classes of partnership interests entitled to vote.

“(C) 15-percent test._ The requirements of this subparagraph are satisfied if_

“(i) with respect to any entity which is a corporation_

“(I) individuals who meet the requirements of paragraph (3) own 15 percent or more in value of the outstanding stock of the corporation, and more than 50 percent of the total combined voting power of all classes of stock entitled to vote of the corporation; and

“(II) no other person owns more than 25 percent in value of the outstanding stock of the corporation; and

“(ii) with respect to any entity which is a partnership_

“(I) individuals who meet the requirements of paragraph (3) own 15 percent or more of the capital interest and profits interest of the partnership, and more than 50 percent of the total combined voting power of all classes of partnership interests entitled to vote; and

“(II) no other person owns more than 25 percent of the capital interest and profits interest of the partnership.

“(D) Publicly-traded corporations test._ The requirements of this subparagraph are satisfied if, with respect to a corporation the securities of which are traded on an established securities market_

“(i) individuals who meet the requirements of paragraph (3) own 50 percent or more of the total combined voting power of all classes of stock entitled to vote of the corporation; and

“(ii) the stock owned by those individuals is not subject to any agreement,

arrangement, or understanding which provides for, or relates to, the voting of the stock in any manner by, or at the direction of, any person other than an eligible individual who meets the requirements of paragraph (3), or the right of any person other than one of those individuals to acquire the voting power through purchase of shares or otherwise.

“(E) Constructive ownership._ In applying subparagraphs (B), (C), and (D), the following rules apply:

“(i) Stock or partnership interests owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries.

“(ii) An individual shall be considered as owning stock and partnership interests owned, directly or indirectly, by or for his family.

“(iii) An individual owning (otherwise than by the application of clause (ii)) any stock in corporation shall be considered as owning the stock or partnership interests owned, directly or indirectly, by or for his partner.

“(iv) An individual owning (otherwise than by the application of clause (ii)) any partnership interest in a partnership shall be considered as owning the stock or partnership interests owned, directly or indirectly, by or for his partner.

“(v) The family of an individual shall include only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

“(vi) Stock or partnership interests constructively owned by a person by reason of the application of clause (i) shall, for the purposes of applying clause (i), (ii), (iii), or (iv), be treated as actually owned by that person, but stock constructively owned by an individual by reason of the application of clause (ii), (iii), or (iv) shall not be treated as owned by that individual for the purpose of again applying any of those clauses in order to make another the constructive owner of the stock or partnership interests.”.

(b) Tax Credit._ Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to rules for computing investment credit) is amended by inserting after section 48 the following:

“SEC. 48A. TELECOMMUNICATIONS BUSINESS CREDIT.

“For purposes of section 46, there is allowed as a credit against the tax imposed by this chapter for any taxable year an amount equal to 10 percent of the taxable income of any taxpayer that at all times during that taxable year_

“(1) is a local exchange carrier (as defined in section 3(44) of the Communications Act

of 1934 (47 U.S.C. 153(44)));

((2) is not a Bell operating company (as defined in section 3(4) of that Act (47 U.S.C. 153(4))); and

((3) is headquartered in an area designated as an empowerment zone by the Secretary of Housing and Urban Development."

(b) Conforming Amendments._

(1) Amendment of Section 46._ Section 46 of such Code (relating to amount of credit) is amended by_

(A) striking "and" in paragraph (2);

(B) striking "credit." in paragraph (3) and inserting "credit; and"; and

(C) adding at the end the following:

((4) the telecommunications business credit."

(2) Clerical amendments._

(A) The analysis for part III of subchapter O of chapter 1 of such Code is amended by adding at the end thereof the following:

((1046. Sale of telecommunications business."

(B) The table of sections for Subpart E of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 48 the following:

((48A. Telecommunications business credit."

(c) Technical and Conforming Changes._ The Secretary of the Treasury shall, within

150 days after the date of enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a draft of any technical and conforming changes in the Internal Revenue Code of 1986 which are necessary to reflect throughout the Code the changes in the substantive provisions of the Code made by subsection (a) of this section.

(d) Effective Date._ The amendments made by this section apply with respect to a purchase described in section 1046(a)(1) of the Internal Revenue Code of 1986 (as added by this section) of a telecommunications business or any equity interest on or after the date of enactment of this Act.

SEC. 4. ADDITIONAL SPECIAL TAX RULES FOR CERTAIN TELECOMMUNICATIONS INVESTMENTS.

(a) Depreciation-related Provisions._

(1) Depreciation of certain telecommunications intangibles._ Section 167(f) of the Internal Revenue Code of 1986 (relating to treatment of certain property excluded from section 197) is amended by adding at the end thereof the following:

“(4) Certain intangible assets._ If a depreciation deduction is allowable under subsection (a) with respect to an intangible asset described in section 197(e)(9), the deduction shall be computed by using the method described in section 168(b)(1).”.

(2) Treatment as intangible asset._ Section 197 of such Code (relating to amortization of goodwill and certain other intangibles) is amended_

(A) by striking “and” after the semicolon in subsection (d)(1)(E);

(B) by striking “tradename.” in subsection (d)(1)(F) and inserting “tradename; and”;

(C) by adding at the end of subsection (d)(1) the following:

“(G) stock in a C corporation which is an eligible purchaser (as defined in section 1046(g)(1)) engaged in a telecommunications business (as defined in section 1046(g)(6)) to the extent that the cost of such stock does not exceed \$5,000,000.”; and
(D) by adding at the end of subsection (e) the following:

“(9) Telecommunications intangibles not a section 197 intangible asset._ Any item described in subsection (d) which is owned by an eligible purchaser (as defined in section 1046(g)(1)) engaged in a telecommunications business (as defined in section 1046(g)(6)).”.

(b) Ordinary Loss Treatment for Certain Telecommunications Losses._

(1) In general._ Part IV of subchapter P of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 1244 the following:

``SEC. 1244A. LOSSES ON STOCK IN TELECOMMUNICATIONS CORPORATIONS.

``(a) General Rule._ A loss on stock in a corporation which is an eligible purchaser (as defined in section 1046(g)(1)) engaged in a telecommunications business (as defined in section 1046(g)(6)) that would (but for this section) be treated as a loss from the sale or exchange of a capital asset, shall be treated as an ordinary loss.

``(b) Maximum Amount for Any Taxable Year._ For any taxable year, the aggregate amount treated by the taxpayer by reason of this section as an ordinary loss may not exceed \$5,000,000."

(2) Conforming amendment._ The analysis for such part is amended by inserting after the item relating to section 1244 the following:

``1244A. Losses on stock in telecommunications corporations."

(c) Exclusion of 50 Percent of Gain._ Section 1202 of the Internal Revenue Code of 1986 (relating to 50-percent exclusion for gain from certain small business stock) is amended_

(1) by striking subsection (a) and inserting the following:

``(a) 50-Percent Exclusion._

``(1) Taxpayers not corporations._ In the case of a taxpayer other than a corporation, gross income does not include 50 percent of any gain from the sale or exchange of qualified small business stock held for more than 5 years.

``(2) Certain telecommunications investments by corporations and investment companies._ Gross income does not include 50 percent of any gain from the sale or exchange of stock in an eligible purchaser (as defined in section 1046(g)(1)) engaged in a telecommunications business (as defined in section 1046(g)(6)) held for more than 5 years.";

(2) by striking subparagraphs (A) and (B) of subsection (b)(1) and inserting the following:

“(A) in the case of gain from the sale or exchange of qualified small business stock held for more than 5 years_

“(i) \$10,000,000 reduced by the aggregate amount of eligible gain taken into account by the taxpayer under subsection (a) for prior taxable years and attributable to dispositions of stock issued by such corporations; or

“(ii) 10 times the aggregate adjusted bases of qualified small business stock issued by such corporations and disposed of by the taxpayer during the taxable year;

“(B) in the case of gain from the sale or exchange of stock in an eligible purchaser engaged in a telecommunications business for more than 5 years_

“(i) \$20,000,000 reduced by the aggregate amount of eligible gain taken into account by the taxpayer under subsection (a) for prior taxable years and attributable to dispositions of stock issued by an eligible purchaser engaged in a telecommunications business; or

“(ii) 15 times the aggregate adjusted bases of stock of an eligible purchaser engaged in a telecommunications business issued by such eligible purchaser and disposed of by the taxpayer during the taxable year.”;

(2) by striking “years.” in subsection (b)(2) and inserting “years or any gain from the sale or exchange of stock in an eligible purchaser engaged in a telecommunications business held for more than 5 years.”; and

(3) by striking “`\$10,000,000'.” in subsection (b)(3)(A) and inserting “`\$10,000,000', and paragraph (1)(B) shall be applied by substituting “\$10,000,000’ for “\$20,000,000’.”.

(d) Deferral of Certain Telecommunications Capital Gains by Corporations and Investment Companies._ Section 1044 of the Internal Revenue Code of 1986 (relating to rollover of publicly-traded securities gains into specialized small business investment companies) is amended_

(1) by striking subsection (a)(1) and inserting the following:

“(1) the cost of any common stock or partnership interest in_

“(A) a specialized small business investment company purchased by the taxpayer during the 60-day period beginning on the date of such sale; or

“(B) an eligible purchaser (as defined in section 1046(g)(1)) engaged in a telecommunications business (as defined in section 1046(g)(6)) purchased by the taxpayer during the 60-day period beginning on the date of such sale,

reduced by_"; and

(2) by redesignating paragraph (4) of subsection (b) as paragraph (5) and inserting after paragraph (3) the following:

“(4) Limitation on certain c corporations and investment companies._ In the case of a C corporation or an investment company acquiring common stock or a partnership interest described in subsection (a)(1)(B), the amount of gain that may be excluded under subsection (a) for any taxable year shall not exceed the lesser of_

“(A) \$750,000; or

“(B) \$4,500,000, reduced by the amount of gain excluded under subsection (a) for all preceding taxable years.”.

(e) Effective Date._

(1) The amendments made by subsection (a) shall apply to property placed in service after June 30, 1999.

(2) The amendments made by subsections (b) and (c) shall apply to stock acquired after June 30, 1999.

(3) The amendments made by subsection (d) shall apply to sales after June 30, 1999.

SEC. 5. BIENNIAL PROGRAM AUDITS BY GAO.

No later than January 1, 2003, and no less frequently than every 2 years thereafter, the Comptroller General shall audit the administration of sections of the Internal Revenue Code of 1986 added or amended by sections 3 and 4 of this Act, and issue a report on the results of that audit. The Comptroller General shall include in the report, notwithstanding any provision of section 6103 of the Internal Revenue Code of 1986 to the contrary_

(1) a list of eligible purchasers (as defined in section 1046(g)(1) of such Code) and any other taxpayer receiving a benefit from the operation of section 48A, 167, 197, 1044, 1046, 1202, or 1244A of such Code as that section was added or amended by section 3 of this Act; and

(2) an assessment of the effect the amendments made by sections 3 and 4 of this Act have had with respect to increasing new entry into the telecommunications industry by small businesses and businesses owned or controlled by members of minority groups and women.